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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/473,619	12/29/1999	ROBERT SIMAN	02655/062002	1229

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EXAMINER

YAEN, CHRISTOPHER H

ART UNIT	PAPER NUMBER
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1643

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/473,619		SIMAN ET AL.	
	Examiner		Art Unit	
	Christopher H. Yaen		1643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-11 and 13-47 is/are pending in the application.
- 4a) Of the above claim(s) 2-7,9-11 and 13-46 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 is/are allowed.
- 6) ☒ Claim(s) 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Re: SIMAN ET AL

1. The amendment filed 4/25/2006 is acknowledged and entered into the record. Accordingly, claims 8 and 12 are canceled without prejudice or disclaimer, and claim 47 is newly added.
2. Claims 1-7,9-11, and 13-47 are pending, claims 2-7,9-11,13-46 are withdrawn as being drawn to a non-elected invention.
3. Claims 1 and 47 are examined on the merits.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections Maintained - 35 USC § 102

5. The rejection of claim 47 as newly presented under 35 USC § 102(b) as being anticipated by Anderson DH *et al* (J. Bacteriol 1989; 171(12):6468-6472, previously cited) is maintained for the reasons of record. Applicant has amended original claim 1 to remove recitation of SEQ ID No: 1, however new claim 47 still reads on the sequence of SEQ ID No: 1. Applicant has not provided any arguments to overcome the rejection of record, therefore, the amendments to the claims are not deemed persuasive to overcome the rejection of record.

Therefore, the rejection of the claim under 35 USC 102(b) is maintained for the reasons of record.

Claim Rejections Maintained - 35 USC § 102

6. The rejection of claim 47 under 35 USC § 102(b) as being anticipated by Dechert *et al* (J. Neurochem 198953(4):1268-1275 is maintained for the reasons of record.

Applicant has amended original claim 1 to remove recitation of SEQ ID No: 1, however new claim 47 still reads on the sequence of SEQ ID No: 1. Applicant has not provided any arguments to overcome the rejection of record, therefore, the amendments to the claims are not deemed persuasive to overcome the rejection of record.

Therefore, the rejection of the claim under 35 USC 102(b) is maintained for the reasons of record.

Claim Rejections Maintained - 35 USC § 102

7. The rejection of claim 47 under 35 USC § 102(e) as being anticipated by Talanian *et al* (US Patent 6,288,037) is maintained for the reasons of record. Applicant has amended original claim 1 to remove recitation of SEQ ID No: 1, however new claim 47 still reads on the sequence of SEQ ID No: 1. Applicant has not provided any arguments to overcome the rejection of record, therefore, the amendments to the claims are not deemed persuasive to overcome the rejection of record.

Therefore, the rejection of the claim under 35 USC 102(e) is maintained for the reasons of record.

Conclusion

Claim 1 appears to be free of the prior art. Claim 47 is not allowed.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H. Yaen whose telephone number is 571-272-0838. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, Ph.D. can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Yaen
Art Unit 1643
June 27, 2006


CHRISTOPHER H. YAEN
PRIMARY EXAMINER